HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

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Writ Petition No.1071 of 2000

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Between:

M.K. Lakshmi Reddy and another

…Petitioners

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And

A.P. Power Transmission Corporation Ltd.,
Rep. by its Director and others

…Respondents.

:: O R D E R ::

Counsel for the petitioners: Shri Kamineni Ramamohan – Mahadeva

Counsel for respondent Nos.1 to 3: Shri Samineni Kishore

Counsel for respondent Nos.4 to 6: ---

February 07, 2007

In this petition, the petitioners have prayed for quashing Memo dated 17-12-1999 issued by Superintending Engineer (Operation), Anantapur (respondent No.3) for appointment of Trainee Sub-Engineers insofar as the same relates to respondent Nos.4 to 6 and also for issue of a mandamus to the official respondents to appoint them as Trainee Sub-Engineers with effect from 17-12-1999.

The aforementioned prayer of the petitioners is founded on the assertion that both of them had worked under the contractors who were

awarded projects by the erstwhile Andhra Pradesh State Electricity Board (for short, 'the Board') and in terms of the policy decision taken by the Board, which was circulated by B.P.Ms.No.36, dated 18-5-1997, they are entitled to be appointed as Trainee Sub-Engineers. The petitioners have also raised the plea of discrimination by alleging that persons junior to them have been selected, but their candidature was arbitrarily rejected.

In the counter affidavit filed on behalf of the respondents, it has been averred that the petitioners were not appointed in the regular establishment because they failed to establish their eligibility and entitlement to be appointed as Trainee Sub-Engineers.

I have heard learned counsel for the parties and perused the record. Shri Samineni Kishore, learned counsel for the official respondents argued that the petitioners were not eligible to be considered for appointment in accordance with the policy contained in B.P.Ms.No.36, dated 18-5-1997 because neither of them was working as contract labour on 18-5-1997. Learned counsel then referred to service certificate of the petitioners to show that while petitioner No.1 had worked with the contractor from 1-8-1995 to 31-7-1996, petitioner No.2 had worked with the contractor for a short period from 1-8-1996 to 18-1-1997. He then argued that the eligibility of the contract labour to be considered for appointment against the 50% vacancies was to be reckoned as on 18-5-1997 and as neither of them was working with the contractor, the candidature of the petitioners was not considered.

Shri Kamineni Ramamohan Mahadeva, learned counsel for the petitioners emphasised that the policy contained in B.P.Ms.No.36, dated 18-5-1997 does not postulate consideration of the candidature of only those contract labour who were actually working under the contractor as on 18-5-1997 and argued that non-consideration of the

petitioners' candidature for appointment against the 50% vacancies should be declared as vitiated due to violation of the doctrine of equality enshrined in Articles 14 and 16 of the Constitution. Learned counsel referred to the averments contained in paragraph 8 of the affidavit of petitioner No.1 – M.K. Lakshmi Reddy to show that at least one of the respondents i.e. respondent No.6, who belongs to Other Caste, had worked only for 169 days and was appointed as Trainee Sub-Engineer, whereas the petitioners, who had worked for longer period, were denied fair consideration.

In my opinion, the writ petition deserves to be allowed because the policy contained in B.P.Ms.No.36, dated 18-5-1997 does not restrict the zone of eligibility to the persons who were employed as contract labour as on 18-5-1997. The fallacious nature of the argument of Shri Samineni Kishore is evinced from the contents and tenor of B.P.Ms.No.36, dated 18-5-1997, which speaks of the consideration of the candidature of Ex-Casual Labour, Village Electricity Worker and Contract Labour. When the policy envisages consideration of the candidature of ex-casual labour, it is impossible to visualise that a person must be in the employment of the Board for being considered for regular appointment.

I am further of the view that the subsequent circulars issued by the Board including B.P.Ms.No.261, dated 19-12-1997 cannot be made basis for denying consideration to the persons like the petitioners who, admittedly, worked as contract labour.

I am also of the view that the cut-off date specified in B.P.Ms.No.36, dated 18-5-1997 and other circulars issued by the Board has bearing only in the context of determination of total number of vacancies which could be filled by considering the candidature of eligible Ex-Casual Labour, Village Electricity Worker and Contract

Labour and not for the purpose of determination of eligibility.

In the result, the writ petition is allowed. The failure of respondent No.3 to objectively consider the candidature of the petitioners for appointment as Trainee Sub-Engineers is declared illegal and the said respondent is directed to consider the petitioners' cases for appointment as Trainee Sub-Engineers. The needful be done within a period of two months from the date of receipt of copy of this order. If the petitioners are found otherwise eligible and suitable and it is also discovered that any of the persons who were selected and appointed as Trainee Sub-Engineers was junior to them in the context of the seniority clause contained in B.P.Ms.No.36, dated 18-5-1997, then the petitioners or such of them who may be senior to the selected should be appointed as Trainee Sub-Engineer with retrospective effect i.e. from 17-12-1999. However, keeping in view the fact that the matter has remained pending before the Court for almost seven years, I deem it proper to direct that the persons who may be selected in terms of this order shall not be entitled to monetary benefits for the intervening period.

G.S.SINGHVI, C.J.

February 07, 2007

svs